

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

MARIA ALEJANDRA CELIMEN SAVINO,
JULIO CESAR MEDEIROS NEVES, and all
those similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

BRIEFING ON INDIVIDUAL APPLICATIONS FOR BAIL
MONDAY, APRIL 20, 2020

1. Smith, Cordel
2. Valentin, Lucas
3. Bonilla Garcia, Darwin Mauricio
4. Da Graca, Aires
5. Hernandez-Andino, Oscar
6. Leach, Damion
7. Lopez Rodriguez, Geremias
8. Williams, Keith
9. Ixcoy-Hernandez, Santos
10. Laul, Garang

INTRODUCTION

Plaintiffs respectfully submit this briefing on the individual applications for bail that are scheduled for the Court's consideration on April 20, 2020. Information that is common to a number of applications (*e.g.*, briefing on CDC high-risk medical conditions) has previously been filed with this Court, *see* ECF 52, 56, 65, 74, 78, 81, and is incorporated herein by reference. The individualized briefings that are attached hereto as Exhibits 2-6 and 8-10 refer to this information as it may be relevant to particular individuals, and also include the following information for each individual: a) Biographical Information; b) Medical Condition; c) Plans For Transportation/Lodging If Released; d) Criminal History; and e) Immigration History.¹

Plaintiffs have omitted substantive briefing on Cordel Smith (#1) and Geremias Lopez Rodriguez (#7). Plaintiffs understand that both of these individuals have been released from custody on bond.

COMMON ISSUES IN INDIVIDUALIZED BRIEFINGS

I. The COVID-19 Pandemic Continues to Escalate in Massachusetts.

	<u>COVID-19 Deaths (MA)</u>	<u>COVID-19 Cases (MA)</u> ²
<i>March 27, 2020 (Date of Complaint Filing)</i>	35	3240
<i>April 19, 2020</i>	1,706 (increase of 146 in last 24 hours)	38,077 (increase of 1,705 in last 24 hours)

¹ As with previous filings, if the Court determines that there are certain records or additional evidence that is needed, or wishes the included material to be presented in a different format, Plaintiffs respectfully request that the Court so inform counsel, so that we may attempt to provide it to the Court expeditiously.

² Source: <https://www.mass.gov/info-details/covid-19-cases-quarantine-and-monitoring>.

As the chart above demonstrates, the COVID-19 pandemic continues to escalate in Massachusetts, causing federal and state officials to grow increasingly concerned about the prospects for the days ahead. Dr. Deborah Birx, the White House Coronavirus Response Coordinator on Sunday singled out Massachusetts as a leading hotspot in the country, stating that “We’re [in] a series of small epidemics across the United States. We’re still very much focused on Boston and across Massachusetts where the epidemics continue to spread across Massachusetts as well as in Boston.”³ The same day, Governor Charlie Baker agreed that the Commonwealth is in great peril: “We’re in a very different place here in Massachusetts than other states are. We’re right in the middle of the surge now.”⁴

In the Bristol County facilities, fear and anxiety is similarly growing.⁵ Following the four cases of COVID-19 disclosed among staff, Plaintiffs’ counsel are now aware of at least one detainee who was tested for COVID-19 on Friday, April 17, 2020. This class member – who shares a cell with four other individuals – had a fever and was brought to medical providers to test for the virus, according to Superintendent Souza (as relayed via Defendant’s counsel). Cells in 2 East Unit, where this class member is held, measure 30 feet x 11 feet, with four double bunk-beds in each.⁶ The class member’s four cellmates – highly anxious and understandably alarmed by this turn of events – were subsequently isolated into single cells. According to Superintendent Souza, test results take 24-48 hours to be returned, but Plaintiffs’ counsel have not yet been provided with any information about whether the test was positive or not (despite inquiries). Meanwhile, in the early hours of Sunday morning, a class member in Unit B

³ See FACE THE NATION, *Transcript: Dr. Deborah Birx discusses coronavirus* (April 19, 2020), available at <https://www.cbsnews.com/news/transcript-dr-deborah-birx-discusses-coronavirus-on-face-the-nation-april-19-2020/>.

⁴ See BOSTON GLOBE, *U.S. health officials watching Mass. coronavirus outbreak closely, Birx says* (April 19, 2020), available at <https://www.bostonglobe.com/2020/04/19/metro/baker-calls-federal-assistance-state-budgets-coronavirus-crisis/>.

⁵ See Exhibit 11.

⁶ See ECF 69 (Declaration of Steven Souza) ¶ 4.

reportedly attempted suicide and may have been hospitalized, due to anxiety caused by his continued detention under current conditions. Plaintiffs' counsel have asked Defendant for more information about this incident, but to date have received no response. Class members continue to live in intense fear and anxiety, and are uniformly hopeful that the Court will continue to carefully and expeditiously rule upon individual applications for bail this coming week, as the Court deems appropriate.

CONCLUSION

Plaintiffs submit that for the foregoing reasons, as well as the specific reasons laid out in the attached individualized briefings, this Court should grant the release of Lucas Valentin, Darwin Mauricio Bonilla Garcia, Aires Da Graca, Oscar Hernandez-Andino, Damion Leach, Keith Williams, Santos Ixcoy-Hernandez, and Garang Laul.

April 19, 2020

Respectfully Submitted,
/s/ Oren Sellstrom
Oren Nimni (BBO #691821)
Oren Sellstrom (BBO #569045)
Lauren Sampson (BBO #704319)
Ivan Espinoza-Madrigal†
Lawyers for Civil Rights
61 Batterymarch Street, 5th Floor
Boston, MA 02110
(617) 988-0606
onimni@lawyersforcivilrights.org

Grace Choi, Law Student Intern*
Kayla Crowell, Law Student Intern*
Laura Kokotailo, Law Student Intern*
Aseem Mehta, Law Student Intern*
Alden Pinkham, Law Student Intern*
Bianca Rey, Law Student Intern*
Megan Yan, Law Student Intern*

Muneer Ahmad[§]
Reena Parikh[†]
Michael Wishnie (BBO# 568654)
Jerome N. Frank Legal Services Organization
P.O. Box 209090
New Haven, CT 06520
Phone: (203) 432-4800
michael.wishnie@ylsclinics.org

CERTIFICATE OF SERVICE

I hereby certify that, on April 19, 2020 a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of this court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

Date: April 19, 2020

/s/ Oren Sellstrom
Oren Sellstrom (BBO #569045)

[§] Motion for admission *pro hac vice* pending

[†] Admitted *pro hac vice*.

* Motion for law student appearances pending.